



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2525

Introduced 1/12/2010, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-107	from Ch. 108 1/2, par. 1-107
40 ILCS 5/1-109.1	from Ch. 108 1/2, par. 1-109.1
40 ILCS 5/1-125	

Amends the Illinois Pension Code. Requires that every retirement system, pension fund or other system or fund established under the Code indemnify and protect the trustees, staff, and consultants against all damage claims and suits when damages are sought for negligent or wrongful acts alleged to have been committed in the scope of employment or under the direction of the trustees (indemnification was discretionary). Provides that a retirement system's, pension fund's, or investment board's goals for the management of assets in specific asset classes by emerging investment managers shall be based on the percentage of total dollar amount of assets to be managed for investment service contracts (rather than the percentage of total dollar amount of investment service contracts) let to minority owned businesses, female owned businesses, and businesses owned by a person with a disability. In provisions concerning prohibition on gifts, provides that solicitation or acceptance of costs associated with educational purposes is not prohibited. Effective immediately.

LRB096 16690 AMC 31974 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 1-107, 1-109.1, and 1-125 as follows:

6 (40 ILCS 5/1-107) (from Ch. 108 1/2, par. 1-107)

7 Sec. 1-107. Indemnification of trustees, consultants and
8 employees of retirement systems and pension funds. Every
9 retirement system, pension fund or other system or fund
10 established under this Code must ~~may~~ indemnify and protect the
11 trustees, staff and consultants against all damage claims and
12 suits, including defense thereof, when damages are sought for
13 negligent or wrongful acts alleged to have been committed in
14 the scope of employment or under the direction of the trustees.
15 However, the trustees, staff and consultants shall not be
16 indemnified for wilful misconduct and gross negligence. Each
17 board is authorized to insure against loss or liability of the
18 trustees, staff and consultants which may result from these
19 damage claims. This insurance shall be carried in a company
20 which is licensed to write such coverage in this State.

21 (Source: P.A. 80-1364.)

22 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

1 Sec. 1-109.1. Allocation and Delegation of Fiduciary
2 Duties.

3 (1) Subject to the provisions of Section 22A-113 of this
4 Code and subsections (2) and (3) of this Section, the board of
5 trustees of a retirement system or pension fund established
6 under this Code may:

7 (a) Appoint one or more investment managers as
8 fiduciaries to manage (including the power to acquire and
9 dispose of) any assets of the retirement system or pension
10 fund; and

11 (b) Allocate duties among themselves and designate
12 others as fiduciaries to carry out specific fiduciary
13 activities other than the management of the assets of the
14 retirement system or pension fund.

15 (2) The board of trustees of a pension fund established
16 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
17 transfer its investment authority, nor transfer the assets of
18 the fund to any other person or entity for the purpose of
19 consolidating or merging its assets and management with any
20 other pension fund or public investment authority, unless the
21 board resolution authorizing such transfer is submitted for
22 approval to the contributors and pensioners of the fund at
23 elections held not less than 30 days after the adoption of such
24 resolution by the board, and such resolution is approved by a
25 majority of the votes cast on the question in both the
26 contributors election and the pensioners election. The

1 election procedures and qualifications governing the election
2 of trustees shall govern the submission of resolutions for
3 approval under this paragraph, insofar as they may be made
4 applicable.

5 (3) Pursuant to subsections (h) and (i) of Section 6 of
6 Article VII of the Illinois Constitution, the investment
7 authority of boards of trustees of retirement systems and
8 pension funds established under this Code is declared to be a
9 subject of exclusive State jurisdiction, and the concurrent
10 exercise by a home rule unit of any power affecting such
11 investment authority is hereby specifically denied and
12 preempted.

13 (4) For the purposes of this Code, "emerging investment
14 manager" means a qualified investment adviser that manages an
15 investment portfolio of at least \$10,000,000 but less than
16 \$10,000,000,000 and is a "minority owned business", "female
17 owned business" or "business owned by a person with a
18 disability" as those terms are defined in the Business
19 Enterprise for Minorities, Females, and Persons with
20 Disabilities Act.

21 It is hereby declared to be the public policy of the State
22 of Illinois to encourage the trustees of public employee
23 retirement systems, pension funds, and investment boards to use
24 emerging investment managers in managing their system's
25 assets, encompassing all asset classes, and increase the
26 racial, ethnic, and gender diversity of its fiduciaries, to the

1 greatest extent feasible within the bounds of financial and
2 fiduciary prudence, and to take affirmative steps to remove any
3 barriers to the full participation in investment opportunities
4 afforded by those retirement systems, pension funds, and
5 investment boards.

6 On or before January 1, 2010, a retirement system, pension
7 fund, or investment board subject to this Code, except those
8 whose investments are restricted by Section 1-113.2 of this
9 Code, shall adopt a policy that sets forth goals for
10 utilization of emerging investment managers. This policy shall
11 include quantifiable goals for the management of assets in
12 specific asset classes by emerging investment managers. The
13 retirement system, pension fund, or investment board shall
14 establish 3 separate goals for: (i) emerging investment
15 managers that are minority owned businesses; (ii) emerging
16 investment managers that are female owned businesses; and (iii)
17 emerging investment managers that are businesses owned by a
18 person with a disability. The goals established shall be based
19 on the percentage of total dollar amount of assets to be
20 managed for investment service contracts let to minority owned
21 businesses, female owned businesses, and businesses owned by a
22 person with a disability, as those terms are defined in the
23 Business Enterprise for Minorities, Females, and Persons with
24 Disabilities Act. The retirement system, pension fund, or
25 investment board shall annually review the goals established
26 under this subsection.

1 If in any case an emerging investment manager meets the
2 criteria established by a board for a specific search and meets
3 the criteria established by a consultant for that search, then
4 that emerging investment manager shall receive an invitation by
5 the board of trustees, or an investment committee of the board
6 of trustees, to present his or her firm for final consideration
7 of a contract. In the case where multiple emerging investment
8 managers meet the criteria of this Section, the staff may
9 choose the most qualified firm or firms to present to the
10 board.

11 The use of an emerging investment manager does not
12 constitute a transfer of investment authority for the purposes
13 of subsection (2) of this Section.

14 (5) Each retirement system, pension fund, or investment
15 board subject to this Code, except those whose investments are
16 restricted by Section 1-113.2 of this Code, shall establish a
17 policy that sets forth goals for increasing the racial, ethnic,
18 and gender diversity of its fiduciaries, including its
19 consultants and senior staff. Each system, fund, and investment
20 board shall annually review the goals established under this
21 subsection.

22 (6) On or before January 1, 2010, a retirement system,
23 pension fund, or investment board subject to this Code, except
24 those whose investments are restricted by Section 1-113.2 of
25 this Code, shall adopt a policy that sets forth goals for
26 utilization of businesses owned by minorities, females, and

1 persons with disabilities for all contracts and services. The
2 goals established shall be based on the percentage of total
3 dollar amount of all contracts let to minority owned
4 businesses, female owned businesses, and businesses owned by a
5 person with a disability, as those terms are defined in the
6 Business Enterprise for Minorities, Females, and Persons with
7 Disabilities Act. The retirement system, pension fund, or
8 investment board shall annually review the goals established
9 under this subsection.

10 (7) On or before January 1, 2010, a retirement system,
11 pension fund, or investment board subject to this Code, except
12 those whose investments are restricted by Section 1-113.2 of
13 this Code, shall adopt a policy that sets forth goals for
14 increasing the utilization of minority broker-dealers. For the
15 purposes of this Code, "minority broker-dealer" means a
16 qualified broker-dealer who meets the definition of "minority
17 owned business", "female owned business", or "business owned by
18 a person with a disability", as those terms are defined in the
19 Business Enterprise for Minorities, Females, and Persons with
20 Disabilities Act. The retirement system, pension fund, or
21 investment board shall annually review the goals established
22 under this Section.

23 (8) Each retirement system, pension fund, and investment
24 board subject to this Code, except those whose investments are
25 restricted by Section 1-113.2 of this Code, shall submit a
26 report to the Governor and the General Assembly by January 1 of

1 each year that includes the following: (i) the policy adopted
2 under subsection (4) of this Section, including the names and
3 addresses of the emerging investment managers used, percentage
4 of the assets under the investment control of emerging
5 investment managers for the 3 separate goals, and the actions
6 it has undertaken to increase the use of emerging investment
7 managers, including encouraging other investment managers to
8 use emerging investment managers as subcontractors when the
9 opportunity arises; (ii) the policy adopted under subsection
10 (5) of this Section; (iii) the policy adopted under subsection
11 (6) of this Section; and (iv) the policy adopted under
12 subsection (7) of this Section, including specific actions
13 undertaken to increase the use of minority broker-dealers.
14 (Source: P.A. 96-6, eff. 4-3-09.)

15 (40 ILCS 5/1-125)

16 Sec. 1-125. Prohibition on gifts.

17 (a) For the purposes of this Section:

18 "Gift" means a gift as defined in Section 1-5 of the State
19 Officials and Employees Ethics Act.

20 "Prohibited source" means a person or entity who:

21 (i) is seeking official action (A) by the board or (B)
22 by a board member;

23 (ii) does business or seeks to do business (A) with the
24 board or (B) with a board member;

25 (iii) has interests that may be substantially affected

1 by the performance or non-performance of the official
2 duties of the board member; or

3 (iv) is registered or required to be registered with
4 the Secretary of State under the Lobbyist Registration Act,
5 except that an entity not otherwise a prohibited source
6 does not become a prohibited source merely because a
7 registered lobbyist is one of its members or serves on its
8 board of directors.

9 (b) No trustee or employee of a retirement system, pension
10 fund, or investment board created under this Code shall
11 intentionally solicit or accept any gift from any prohibited
12 source as prescribed in Article 10 of the State Officials and
13 Employees Ethics Act. The exceptions contained in Section 10-15
14 of that Act, other than paragraph ~~paragraphs (4) and~~ (5) of
15 that Section shall apply to trustees and employees of a
16 retirement system, pension fund, or investment board created
17 under this Code. Solicitation or acceptance of educational
18 materials or other costs associated with educational purposes,
19 however, is not prohibited. For the purposes of this Section,
20 references to "State employee" and "employee" in Article 10 of
21 the State Officials and Employees Ethics Act shall include a
22 trustee or employee of a retirement system, pension fund, or
23 investment board created under this Code.

24 (c) A municipality may adopt or maintain policies or
25 ordinances that are more restrictive than those set forth in
26 this Section and may continue to follow any existing policies

1 or ordinances that are more restrictive or are in addition to
2 those set forth in this Section.

3 (d) To the extent that the provisions of this Section
4 conflict with the provisions of the State Officials and
5 Employees Ethics Act, the provisions of this Section control.

6 (e) Violation of this Section is a Class A misdemeanor.

7 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.